



COMMONWEALTH of VIRGINIA

BOARD OF EDUCATION

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Thomas M. Jackson, Jr.
President

April 28, 2005

The Honorable Raymond Simon
Assistant Secretary
Office of Elementary and Secondary Education
United States Department of Education
400 Maryland Avenue, S.W.
Washington, D. C. 20202

Dear Assistant Secretary Simon:

On January 20, 2005, the Virginia Board of Education submitted twelve proposed amendment/waiver requests to the Consolidated State Application Accountability Plan (amended May 26, 2004) required in the *No Child Left Behind Act of 2001 (NCLB)*. To date, the state Board of Education has received from the United States Department of Education (USED) an informal letter concerning two of the proposed amendments and a formal rejection of a requested waiver from testing reading and writing skills of limited English proficient (LEP) children in kindergarten and first grade. Since Virginia asked to implement the revised policies beginning in the 2004-2005 school year, it is urgent that USED respond to our requests immediately.

The purpose of this letter is to respond to the U.S. Secretary of Education's recent press release, *Raising Achievement: A New Path for No Child Left Behind*. On April 7, 2005, Secretary of Education Margaret Spellings announced that USED plans to give consideration to the use of growth models in determining Adequate Yearly Progress (AYP). The announcement stated, "...Another example of such flexibility could include a request for the use of growth models; or States may have their own proposals for demonstrating progress and effective implementation..."

I would like to remind USED of language in Virginia's Consolidated State Application Accountability Workbook that has been in place since its original submission in June 2003.

The workbook states:

This consolidated application workbook is based on the interpretation of NCLB regulations as mandating a single starting point in both English and math for all reporting categories for purposes of establishing progress benchmarks for AYP between now and 2014. Should the NCLB regulations permit it, in the alternative, the Virginia SEA would request to establish individual starting points in each reporting category which would be based upon actual data of student performance in each reporting category for the prior three years. (Virginia Consolidated State Application Accountability Workbook, Critical Element 3.2(a) (amended May 26, 2004))

At its April 20, 2005, meeting the state Board of Education affirmed the position stated in the accountability workbook and approved the use of separate starting points and annual measurable objectives in each subgroup (i.e., reporting category) based on actual student performance as a proposed growth model in determining Adequate Yearly Progress for schools, divisions, and the state. Please add Virginia's proposed growth model to the January 20, 2005, amendment/waiver submission (see attachment). Upon receiving a response to all of our requests, the Virginia Board of Education will adopt the specific annual measurable objectives for each reporting category and submit to USED an amended accountability workbook.

Secretary of Education Margaret Spellings has promised additional flexibility for states that adhere to what she described as the four core principles of the law: ensuring students are learning; making the school system accountable; ensuring information is accessible and parents have options; and improving teacher quality. Secretary Spellings' promise of additional flexibility is encouraging. The Virginia Standards of Learning program is based on these four core principles. Unclear at this point, however, is how the Secretary's April 7 announcement will affect the Virginia Board of Education's pending waiver requests, which were submitted to USED at the end of January.

As I stated in my letter of January 20, the success of Virginia's standards-based accountability program is due in large part to the willingness of policymakers to listen to practitioners and take steps to prevent unintended consequences. Virginia embraces the four core principles of NCLB. More importantly, Virginia has established sound educational policies to implement these core principles. The result has been improved student achievement on challenging academic standards. With additional flexibility at the state level to implement the goals and intent of NCLB, Virginia will expand its efforts to close the achievement gap.

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Your consideration and approval of Virginia's request are appreciated. If you have questions, please contact me or Dr. Jo Lynne DeMary, Superintendent of Public Instruction, at 804-225-2023.

Sincerely,

A handwritten signature in black ink, reading "Thomas M. Jackson". The signature is fluid and cursive, with a stylized "J" and "A".

Thomas M. Jackson
President, Board of Education

Attachment

cc: Jo Lynne DeMary
Superintendent of Public Instruction

Proposed Amendments to Virginia Consolidated State Application Accountability Plan Required in NCLB

**Adopted by Virginia Board of Education: April 20, 2005
Addendum to January 19, 2005 Amendment Request**

NCLB Statutory Authority for Amendment Requests:

"SEC. 9401. WAIVERS OF STATUTORY AND REGULATORY REQUIREMENTS.

(a) IN GENERAL- Except as provided in subsection (c), the Secretary may waive any statutory or regulatory requirement of this Act for a State educational agency, local educational agency, Indian tribe, or school through a local educational agency, that —

(1) receives funds under a program authorized by this Act; and

(2) requests a waiver under subsection (b)."

11. AYP: Growth Model Based on Separate Starting Points and Annual Measurable Objectives in Each Subgroup (Critical Elements 3.2(a), 3.2(b), 3.2(c))

Request: Virginia will establish and implement a growth model for determining Adequate Yearly Progress (AYP) of schools, divisions, and the state using separate starting points and annual measurable objectives in each reporting category (i.e., subgroup) based on actual student performance in each category for the prior three years.

Rationale: Virginia will implement the preferred policy for determining AYP as stated in Virginia's Consolidated State Application Accountability Workbook, which has been in place since its submission in June 2003. The workbook states:

This consolidated application workbook is based on the interpretation of NCLB regulations as mandating a single starting point in both English and math for all reporting categories for purposes of establishing progress benchmarks for AYP between now and 2014. Should the NCLB regulations permit it, in the alternative, the Virginia SEA would request to establish individual starting points in each reporting category which would be based upon actual data of student performance in each reporting category for the prior three years. (Virginia Consolidated State Application Accountability Workbook, Critical Element 3.2(a) (amended May 26, 2004)

NCLB defines AYP primarily on whether each student subgroup achieves the annual measurable objectives (proficiency pass rates) on state assessments in reading and mathematics. The annual measurable objectives in reading and mathematics are derived from the pass rates of students in the aggregate. However, AYP decisions are based on using the same pass rate for all student groups. This model does not fully value progress with subgroups starting significantly below proficiency. Virginia is committed to meeting AYP for all students, but the current system does not sufficiently value the progress Virginia has made with students overall or the progress for lower-performing subgroups.

Permitting states with a history of standards, assessment, and accountability to set separate starting points and trajectories based on actual performance of student subgroups will lead to more valid AYP determinations.